



Agri-food Trade Update

A quarterly review of international trade policy issues and developments
that have implications for the agri-food sector in Ontario

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Agri-Food Trade Update is written by Bobby Seeber and Sid Friesen of the Policy and Farm Finance Division of the Ontario Ministry of Agriculture, Food and Rural Affairs. Please direct any inquiries or comments to Sid Friesen, by telephone at (519) 826-3234, by mail at 1 Stone Road West, Guelph, Ontario, N1G 4Y2 or by e-mail to sid.friesen@omafra.gov.on.ca. To receive an electronic version of this newsletter by e-mail please contact Bobby Seeber by e-mail at bobby.seeber@omafra.gov.on.ca.

1. SEATTLE WTO MINISTERIAL FAILS TO LAUNCH NEW ROUND

Trade Ministers from the 135 member countries of the World Trade Organization (WTO) met in Seattle from November 30 to December 3, 1999 for the 3rd Ministerial Conference of the WTO. In spite of the fact that Geneva-based drafters had worked doggedly to come up with a consensus text from which a comprehensive round of negotiations could be launched, success was not to be had. It was near the end of the four-day Ministerial that the Chair of the negotiations, U.S. Trade Representative Charlene Barshefsky, finally announced that WTO members would not be able to agree on a text from which a comprehensive round could be launched.

Theories abound as to why the Ministerial ultimately ended in failure. Many observers, however, view the determination of the U.S. delegation to follow an agenda dictated by domestic political interests, as one of the key reasons for the failure. While agriculture has traditionally been a very difficult area in these types of negotiations (and it was again this time), it appears that the failure at Seattle had more to do with difficulties in areas other than agriculture. The European Union (EU) clearly needed to have a broad round of negotiations launched in order to be able to make concessions in agriculture in return for gains elsewhere.

When those gains elsewhere failed to materialize (for example in the Americans' refusal to agree to open the Agreement on Dumping in any way, shape or form), ultimately the progress that had been made in agriculture came undone as well. The latest draft of the agriculture section of the Seattle declaration (which ultimately fell through) called for "substantial reduction of export subsidies....in the direction of progressive elimination". Ambassador Barshefsky and WTO Director-General Mike Moore claimed that progress made in Seattle had been "locked-in". This view, however, was not shared by the European Union's chief negotiator, Pascal Lamy, who was quick to counter that any offers the EU may have had on the table had been retracted.

So now the stage moves back to Geneva. Technically, negotiations in agriculture and services have already begun; they were mandated by the Uruguay Round agreements. But because it is a very narrow negotiating agenda, most observers believe little progress will be made in the agriculture negotiations over the next year or so. At a meeting of the WTO's General Council on February 7 and 8, WTO members did agree that the agriculture negotiations would be conducted within the existing Committee on Agriculture. This committee next meets in Geneva on March 23 and 24. The advantage of using this existing committee, rather than creating a separate negotiating group on agriculture, is that procedural rules on how the committee conducts its business are already in place. The General Council also agreed on some of the chairs for the its various bodies for the next year. Ambassador Kåre Bryn of Norway will head up the General Council, while Ambassador Carlos Pérez del Castillo of Uruguay and Canadian Ambassador Sergio Marchi will head up the Councils for Trade in Goods, and Trade in Services, respectively.

The failed launch of a broad round of negotiations in Seattle raises other questions as well. Within the WTO itself, clearly there is a need to develop a process which is more inclusive of the concerns of developing countries. The WTO's dispute settlement system has been well-used since 1995 but the failed Ministerial may raise questions about the WTO's continued effectiveness in this area. There is also the question about what happens to the "peace clause" for "green" programs in the Agreement on Agriculture. If not renewed in some way it will expire at the end of 2003.

These are some questions that OMAFRA's Policy and Farm Finance Division is hoping will be addressed in a seminar it is sponsoring on Monday, March 27, 2000. For more information on the seminar, which will feature speakers from Canada, the U.S. and the EU, please see the Trade and Intergovernmental Policy section of the OMAFRA website at:

<http://www.gov.on.ca/OMAFRA/english/policy/index.html>

[See December 4, 1999 Canadian federal government press release on the Seattle Ministerial.]

http://198.103.104.118/minpub/Publication.asp?FileSpec=/Min_Pub_Docs/102881.htm

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2. BIOSAFETY PROTOCOL NEGOTIATIONS END IN AGREEMENT

After five years of negotiations, officials from over 130 countries gathered in Montréal finally came to an agreement to protect the environment from the risks imposed by the transboundary transport of living, modified organisms (LMOs). The agreement was signed on January 29, 2000, and is known as the "Cartagena Protocol on Biosafety". It is intended to ensure an adequate level of protection in the transfer, handling and use of LMOs that result from modern biotechnology and that may have adverse effects on the conservation and sustainable use of biological diversity. The Protocol will not apply to the transboundary movement of pharmaceuticals.

A contentious issue in the negotiations had to do with how the Protocol would relate to other existing agreements, such as the trade agreements under the World Trade Organization (WTO). In this regard the text of the Protocol emphasizes that "this Protocol shall not be interpreted as implying a change in the rights and obligations of a Party under any existing international agreements". However, the very next line states that the above sentence is not intended to "subordinate this Protocol to other international agreements". Thus, it would appear that in the event of a conflict, the rights of a country under the WTO would prevail over those emanating from the Cartagena Protocol.

One of the key provisions of the Cartagena Protocol is that it sets in place a system of advanced informed agreement (AIA) that exporting countries must abide by when living, modified organisms (LMOs) intended for "introduction into the environment" are shipped to another country. AIA basically is a process whereby the exporting country would provide extensive information on the LMO to be exported, long in advance of the export taking place. This "advanced" information would allow the importing country an opportunity to assess whether the LMO would pose a risk to its biodiversity. The AIA provisions of the Protocol do not apply to LMOs that are merely "in transit" through a country or to LMOs that are destined for "contained use".

The Protocol requires that LMOs that are intended for direct use as "food, or feed, or for processing" are to be clearly identified as LMOs. The Protocol text indicates that the detailed requirements with respect to this identification are to be agreed upon within two years of the entry into force of the Protocol. It is not clear at this point what practical impact all of this will have on Canadian exports of agri-food products. However, the Canadian Federation of Agriculture issued a press release on January 31st, stating that farmers should expect to see increased costs imposed on them through the grain transportation system as a result of the labeling rules in the Protocol being applied. Canola, corn, soybeans and potatoes are some of the crops for which there are approved LMO varieties in Canada.

Perhaps one of the key provisions that sets the Cartagena Protocol apart from the WTO Agreements is that it allows for what is known as the "precautionary principle". Under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, WTO members must be able to point to sound, scientific evidence as the basis for any measures they have implemented. Under the precautionary principle, embodied in the Cartagena Protocol, parties can take any measures they deem appropriate for the purpose of protecting biological diversity. This applies even in cases where there is "lack of scientific certainty due to insufficient relevant scientific information".

The Protocol will be open for signatures at the United Nations Environment Programme headquarters in Nairobi from May 15 - 26 and at United Nations headquarters in New York from June 5, 2000 to June 4, 2001. It will come into force once it has been ratified by 50 member countries.

[See Environment Canada January 29, 2000 press release on the conclusion of the Biosafety Protocol negotiations.]

http://www.ec.gc.ca/press/bio_n_e.htm

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3. PARTIES AGREE ON SCHEDULE OF COMPLIANCE BY CANADA IN WTO DAIRY DISPUTE

On December 23, 1999, the United States, New Zealand and Canada agreed on a schedule for implementation in response to the WTO findings on dairy export pricing practices. The Appellate Body Report on this dispute was adopted by the WTO Dispute Settlement Body on October 27, 1999.

The three parties agreed that Canada would follow a staged implementation schedule. For butter and skim milk powder, Canada has committed to bringing its export quantities in line with its Uruguay Round quantitative reduction commitments levels within the current dairy marketing year (August 1, 1999 to July 31, 2000). For cheese, Canada will bring its export quantities into compliance for the subsequent dairy marketing year; meanwhile, Canada has agreed to limit exports of cheese under Special Classes 5(d) and (e) to 20,433 tonnes.

With respect to the importation of fluid milk, Canada agreed that by February 1, 2000 it would make the necessary regulatory amendments to remove the provision limiting cross-border purchases to \$20 each. This provision had not been strictly enforced by Canadian border

authorities in recent years. Discussions by Canadian industry and government officials on how to structure an export marketing system that is compliant with the WTO ruling, are on-going.

[See December 23, 1999 press release from the Office of the United States Trade Representative on the agreement between Canada, the U.S. and New Zealand on Canada's implementation of the WTO Appellate Body decision.]

<http://www.ustr.gov/releases/1999/12/99-104.html>

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4. CANADA AND U.S. CELEBRATE ACHIEVEMENTS UNDER RECORD OF UNDERSTANDING (ROU)

On December 13, 1999 (fresh from the failed WTO conference in Seattle) Canadian Agriculture and Agri-Food Minister, Lyle Vanclief, and U.S. Agriculture Secretary, Dan Glickman, issued press releases celebrating progress that had been made under the Canada-U.S. Record of Understanding (ROU) from December 1998.

Some of the highlights the Ministers referred to included the success of the Northwest Cattle Project (under which 93,000 head of U.S. feeder cattle have been imported into western Canada in the first eight weeks of the current year alone) and amendments to Canada's slaughter swine import regulations. The latter initiative has increased access to U.S. hogs for Canadian hog processing plants. Also noted was the progress that has been made in getting chemical companies to jointly register new crop pesticide products in both countries at the same time and the fact that a healthy cross-border dialogue on trade and other agricultural issues has been ignited at the state-provincial level.

Another one of the results of the ROU was the establishment of a Canada-U.S. Consultative Committee on Agriculture, intended to be a forum for regular consultations on trade issues that are of concern to either of the two countries. The Consultative Committee on Agriculture has representation from senior-level federal officials from the trade and agriculture departments of the two countries and it most recently met on February 1, 2000. A process has also been created whereby state and provincial level governments can have input into issues that are addressed by the Consultative Committee on Agriculture. This advisory group is known as the Provinces-States Advisory Group (P-SAG). Canadian members of the P-SAG had asked the Consultative Committee on Agriculture to address issues such as the U.S. harassment of Canadian hemp exports, implications of implementation of the U.S. Food Quality Protection Act, a discussion around the impact of anti-dumping rules and a comparison of domestic support programs for agriculture in Canada and the U.S., among others.

The National Association of State Departments of Agriculture (NASDA) has invited Canadian provincial ministers of agriculture to a joint meeting in Washington D.C. on March 2, 2000. This gathering would also serve as a meeting of the P-SAG, prior to the regularly scheduled Mid-Year NASDA conference. For its part, Ontario has spearheaded efforts to establish the Great Lakes sub-group to the P-SAG. The Great Lakes group met informally in Guelph Ontario in the fall of 1999 and is planning to meet again in Wisconsin this spring. Its members include Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, Québec and Ontario.

5. R-CALF APPEALS ITC'S NEGATIVE INJURY DETERMINATION

On January 24, 2000, the Ranchers-Cattlemen Action Legal Fund (R-Calf) filed the complaint in its appeal of the November 9, 1999 negative injury ruling by the U.S. International Trade Commission with respect to the impact of "dumped" Canadian cattle on the U.S. industry. The complaint was filed with the NAFTA Secretariat; the Canadian cattle industry had chosen to direct the appeal through the NAFTA Chapter 19 dispute settlement process, rather than having it dealt with by the U.S. Court of International Trade. If the process moves forward according to the prescribed timelines, a Panel should issue a written decision on this case before the end of this calendar year. The deadline by which R-Calf needs to file its legal brief is April 24, 2000.

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6. MORE UNCERTAINTY AROUND HEMP EXPORTS

In August 1999, U.S. Customs seized a shipment of Ontario hemp seed products bound for the U.S. market. This action resulted in several months of posturing by U.S. Drug Enforcement Agency officials as they tried to sort out exactly how the importation of legitimate industrial hemp products intermeshed with the official U.S. policy on drugs.

Just when it appeared that the situation had been sorted out and shipments were back to normal, the Director of the U.S. Office of National Drug Control Policy wrote a letter to U.S. Customs on December 30, 1999, asking that the policy of allowing the importation of hemp products be suspended. This suspension was to apply to all hemp products, including those that contain less than 0.3 percent tetrahydrocannabinol (THC). As a result, U.S. Customs issued a memorandum to its Field Operations on January 5, 2000, indicating that, effective immediately, any hemp products containing any amount of THC were to be subject to seizure. The January 5 memo raises troubling new concerns about the potential for harassment of Canadian hemp exports.

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7. PROPOSED CHANGES TO CANADIAN HEALTH OF ANIMALS REGULATIONS TO ALLOW FOR REGIONALIZATION

On December 18, 1999, the Canadian Food Inspection Agency (CFIA) issued proposed new regulations under Canada's Health of Animals Act. Under the proposed amendments, the CFIA would be able to assess the animal health risks associated with individual states in the U.S., or individual regions in other countries, rather than being required to assess the animal health risk associated with a country, as a whole. The new "regionalization" approach is expected to facilitate initiatives like the Northwest Cattle Project, or the process by which individual U.S. states get approved to export slaughter swine to Canada under the pseudorabies protocol. The change to

the regulations will allow these types of initiatives to be implemented through changes in policy, rather than necessitating a change in regulations for each new initiative.

The new health risk categories for individual regions will allow a reduction in documentation requirements for animal imports from regions having been evaluated as having a health risk status equivalent to, or superior to, that of Canada. The documentation requirements for imports from other regions may be greater than is the case at the present time. Interested parties have 120 days to comment to the CFIA on the proposed regulatory amendments, but it is anticipated that the amended regulations will be in force by the first quarter of 2001. The U.S. Department of Agriculture, for its part, passed similar "regionalization" legislation in 1997.

[See the proposed regulatory amendment on the CFIA website.]

http://www.cfia-acia.agr.ca/english/actsregs/rias/99017_e.html

[See the "Regulatory Impact Analysis Statement" on the CFIA website.]

http://www.cfia-acia.agr.ca/english/reg/consultation/99017ria_e.shtml

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8. CFIA EXTENDS BAN ON BEE IMPORTS FROM U.S.

The Canadian Food Inspection Agency recently proposed a regulatory amendment that would extend a current ban on honey bee imports from the mainland United States until December 31, 2004. The ban, which has been in place since 1987, is based on the fact that nearly 100 percent of U.S. honeybee colonies are infected with varroa mites and based on concerns about importing honeybees that have the aggressive characteristics of Africanized honeybees. Only 24 percent of Canadian honeybees are infested with the mites and it is estimated that a widespread infestation within Canada would result in added costs of \$10 per colony for chemical treatment of the mite problem.

[See the "Regulatory Impact Analysis Statement" on the CFIA website.]

<http://www.cfia-acia.agr.ca/english/>

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9. CITT NOTICE OF EXPIRY OF FINDINGS CONCERNING REFINED SUGAR

On January 5, 2000, the Canadian International Trade Tribunal (CITT) gave official notice of the expiry of its November 6, 1995 threat of injury finding concerning the dumping and subsidizing of U.S. and EU sugar in the Canadian market. Under Canada's Special Import Measures Act (SIMA), injury findings and the associated duty protection automatically expire after five years unless a "review" is held. In the January 5 notice, the CITT requested submissions on whether or not a review should be conducted. These submissions were to be filed with the CITT by February 2, 2000.

If a review is held and the conclusion is that the removal of the anti-dumping or countervail duties would result in the resumption of injury, or threat of injury, then the duties will remain in place. If the review finds that injury to the Canadian sugar refining industry is not likely to recur, then the duties will expire as of November 3, 2000. The Canadian Sugar Institute claims that the 79 percent anti-dumping duty on refined sugar from the U.S. and 50.79 ECU/100 kg. countervail duty on sugar from the EU have helped to restore profitability to the industry. The CITT is expected to rule by the end of February 2000 on whether a review will be conducted.

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10. AAFC ANNOUNCES MIKE GIFFORD'S RETIREMENT

TA few weeks ago Agriculture and Agri-Food Canada (AAFC) announced that Mike Gifford would be retiring from the Canadian federal civil service. The retirement will mark the end of a distinguished 34-year career for Mr. Gifford, in which he is most well known for being Canada's senior negotiator on agriculture trade issues. Mr. Gifford represented Canada at the agricultural trade negotiations of the Canada-U.S. Free Trade Agreement, the North American Free Trade Agreement and the Uruguay Round negotiations of the General Agreement on Tariffs and Trade, now the World Trade Organization.

Most recently, Mr. Gifford held the position of Special Trade Policy Advisor to Minister Vanclief; in the last several years he has also held the positions of Director-General of AAFC's International Trade Policy Directorate and Acting Assistant Deputy Minister of AAFC's Market Industry Services Branch. The departure of Mr. Gifford will no doubt leave a sizeable hole in the federal government's agricultural trade policy capability; a hole that will not be easy to fill.

We extend heartfelt appreciation to Mr. Gifford for his many years of service to Canada and to the Canadian agri-food industry at the international negotiating table and wish him continued health and happiness as he embarks on his new endeavours.

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11. UPCOMING EVENTS

February 12 - 14, 2000	Globalization and the New Agricultural Trade Rules: A Conference to Promote Public Debate being held in Saskatoon, Saskatchewan, sponsored by the University of Saskatchewan and several other organizations. More information is available on the University of Saskatchewan website at: http://www.ag.usask.ca/news/conferences/gntr/index.html
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February 23 - 24, 2000	Workshop in Ottawa on Multifunctionality and the Precautionary Principles, sponsored by the Canadian Federation of Agriculture (CFA). The workshop is intended to increase participants' familiarity with these concepts, in particular as they relate to trade, environment and rural issues. For more information call the CFA at (613) 236-3633.
March 2, 2000	Provinces-States Advisory Group (P-SAG) meeting in Washington, D.C.
March 23 - 24, 2000	Meeting of the WTO Committee on Agriculture
March 27, 2000	OMAFRA seminar on the WTO Ministerial Conference in Seattle and what this means for the future of the agricultural negotiations
April 24, 2000	Deadline for R-Calf to file legal brief to NAFTA panel reviewing U.S. International Trade Commission cattle dumping injury ruling
May 3, 2000	Meeting of the WTO General Council

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1. WTO COMMITTEE ON AGRICULTURE DEVELOPS WORKPLAN AND ACCEPTS NEW CHAIR

At its meeting on May 8th, the World Trade Organization (WTO) General Council agreed to the appointment of the remaining committee chairs, (many of the new chairs had already been appointed in February), including those for the Agriculture Committee. The appointments will be in effect for one year. The Committee on Agriculture will be chaired by Peruvian Ambassador Jorge Voto-Bernales, while Yoichi Suzuki of Japan will be the vice-chair.

The WTO Committee on Agriculture last met on March 23 and 24. In this, its first meeting since the Seattle Ministerial in late 1999, the Committee agreed to a comprehensive negotiation workplan for the next year. The Committee will meet in special negotiating sessions in June, September and November of this year, and possibly very early in 2001 as well. Then in March 2001, the Committee will meet for a "stocktaking" session. These special sessions of the Agriculture Committee will be held just before, or just after, its regular meetings.

The Committee also agreed that over the next year a number of papers would be prepared on various technical issues, either by interested members, or by the WTO Secretariat itself. These papers will provide more of the background information that will be necessary for the negotiations to proceed. Members also agreed to submit negotiating proposals by the end of this year, although there was some flexibility built around this deadline. Members may wait until early in 2001 to submit the details around their negotiating proposals, as long as other members have sufficient time to review them before the "stocktaking" session in March of 2001.

While the Seattle Ministerial was unsuccessful in launching a new round of comprehensive trade negotiations, agriculture negotiations are proceeding under the mandate already provided under Article 20 of the Uruguay Round Agreement on Agriculture.

[See March 24 press release by Agriculture and Agri-Food Canada regarding the meeting of the

Committee on Agriculture.]

<http://aceis.agr.ca/cb/news/n00324ae.html>

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2. U.S. LOSES WTO PANEL DECISION ON FOREIGN SALES CORPORATION

In its most far-reaching case ever decided, the WTO's Appellate Body found in February 2000 that U.S. foreign sales corporations act as illegal export subsidies and so contribute to U.S. subsidized export expenditures.

The Foreign Sales Corporation (FSC) scheme allows U.S. shell companies operating from tax havens such as the Virgin Islands, Guam and the Barbados, to avoid income tax on part-U.S. made products. The FSC scheme involves some 3,000 U.S. companies, allowing tax reductions of some \$3.5 billion (U.S.) annually on about \$250 billion worth of traded goods. Of the total turnover affected, \$4.4 billion worth of maize, wheat, soybeans and cotton are processed through the system.

"The FSC measure allows for the provision of an unlimited amount of FSC subsidies," says the WTO Appellate report. Consequently, agricultural products may "benefit from those subsidies when the (Uruguay Round) reduction commitment levels specified in the United States' Schedule... have been reached." In addition, all other so-called 'unscheduled' U.S. agricultural exports not notified to the WTO, benefit from the scheme. In whatever way WTO members choose to implement taxes, says the AB report, "subsidies contingent on export performance violate WTO agreements. "

The deadline for implementing the FSC ruling was fixed at October 1, 2000, which is the beginning of the U.S. fiscal year. The U.S. is currently seeking to negotiate a solution with the EU, since trade officials concede that amending tax legislation within this timeframe, and just prior to the U.S. presidential elections, will be next to impossible.

Two possibilities exist if the U.S. does not implement the WTO panel ruling on time. The parties can either negotiate compensation, or failing a mutually agreeably solution, the EU can press for retaliatory sanctions. Because of the magnitude of the subsidy in question, retaliation by the EU will be difficult to operationalize. Withdrawal of concessions on some \$4 billion of American goods will cause significant hardships for many domestic industries. Therefore, determining which sectors to target will be a politically-loaded task.

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3. CANADA SUBMITS ITS 1996 AGRICULTURAL SUBSIDIES NOTIFICATION TO THE WTO

In March, Canada submitted to the WTO its Annual Notification of Agricultural Support, for 1996. The notification includes expenditures for the 1996 calendar year, the 1996/97 fiscal year and various 1996/97 marketing years.

Canadian total Aggregate Measure of Support (AMS) spending in 1996 was \$618.7 million, 12.3 percent of the \$5.017 billion ceiling for that year. (AMS expenditures are required to be reduced by 20 percent over the 1995 - 2000 Uruguay Round implementation period, from their 1986-88 base.) In 1995, Canada's AMS expenditures were \$777.4 million, or 15 percent of the \$5.197 billion ceiling for that year. In WTO parlance, AMS support (also known as "amber" support), is any support that does not meet the "green" or "blue" criteria and that is not considered an export subsidy. To be considered "green", a program must meet the fundamental requirement that it has "no, or at most minimal, trade distorting effects or effects on production", in addition to meeting certain policy-specific criteria. "Blue" programs are those which have production-limiting features.

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4. PROVINCES-STATES ADVISORY GROUP LAUNCHES AGGRESSIVE ACTION AGENDA

With representation from six provinces and 14 northern-tier states, the Provinces-States Advisory Group (P-SAG) met in Washington D.C. on March 2nd to hammer out a 15-point action plan for the next five months. The P-SAG serves as a forum to discuss and resolve issues of mutual concern and to make recommendations to the federal-level Canada-U.S. Consultative Committee on Agriculture, regarding federal regulations that impede trade.

The P-SAG is currently co-chaired by Saskatchewan Minister of Agriculture and Food, Dwain Lingenfelter and Montana Director of Agriculture, Ralph Peck. Some of the action items agreed to at the March 2nd meeting include the following:

- Alberta and North Dakota will take a lead in developing a list of priority regulatory issues at the federal and state/provincial levels that affect trade in cattle;
- Canadian provinces (Ontario taking lead) and the National Association of State Departments of Agriculture (NASDA) agreed to exchange information with respect to positions taken on genetically-modified organisms;
- Manitoba and Minnesota are leading efforts to explore facilitation of two-way trade in hogs; and
- Wisconsin and Ontario are co-hosting a Great Lakes Regional Forum in Wisconsin on June 21, 2000, providing an opportunity for state and provincial officials in the area to discuss issues of mutual concern.

The P-SAG co-chairs also wrote to the Canadian Food Inspection Agency on April 17 indicating their general support for the proposed animal health risk regionalization initiative (see ATU, Winter 2000). The next meeting of the P-SAG will take place in Saskatoon from July 27-29, 2000.

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5. U.S. PROPOSES IMPORT PERMIT SYSTEM FOR SUGAR-CONTAINING PRODUCTS

The United States Department of Agriculture (USDA) has issued a proposed rule that will allow for

the licensing of imports of sugar-containing products (SCP's) provided for under Additional U.S. Note 8 to chapter 17 of the Harmonized Tariff Schedule of the United States. As a result of an extension requested by the Canadian federal government and granted, interested parties have until May 17, 2000 to comment on the proposed rule. If the rule is implemented as proposed in the March 17, 2000 issue of the Federal Register, the U.S. will begin to require import licenses for any imports under the SCP tariff rate quota (TRQ) after October 1, 2000. This is the start of the next U.S. sugar marketing year.

The proposed rule has the potential to frustrate the Canadian federal government's efforts to increasingly shift exports under the TRQ to high value products, as opposed to bulk shipments. On June 11, 1999, the Department of Foreign Affairs and International Trade Canada (DFAIT) issued a Notice to Exporters, in which the government announced its intent to phase a portion of the bulk shipments under this export allocation to value-added retail-ready products. This shift in export focus was intended to "maximize economic benefits to Canada" under the TRQ.

As of February 4, 2000, the U.S. started requiring imports under the TRQ originating from Canada to be accompanied by a Canadian export permit. This was one of the issues that Canada had sought to address as part of the December 1998 Record of Understanding between Canada and the U.S. on trade in agricultural areas. In September 1997, the U.S. and Canada signed a bilateral agreement under which Canada was granted annual access to the U.S. market for at least 59,250 tonnes of sugar-containing products.

[See the June 11, 1999 Notice to Exporters issued by DFAIT.]
<http://www.dfait-maeci.gc.ca/~eicb/notices/ser117-e.htm>

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6. R-CALF WITHDRAWS REQUEST FOR APPEALS IN CATTLE CASE

The books can finally be closed on a very costly countervail and dumping investigation of the Canadian cattle industry. In early March, the Ranchers-Cattlemen Action Legal Fund (R-Calf), which had petitioned both components of the investigation, announced the withdrawal of its appeal of a negative dumping injury ruling. R-Calf had earlier withdrawn its request to appeal an unfavourable countervail decision brought down by the U.S. Department of Commerce. Both appeals, if not withdrawn, would have been heard by a NAFTA dispute settlement panel.

In expressing its satisfaction with finally ending this investigation, the Canadian Cattlemen's Association noted that over \$5 million had been spent on legal fees over the past two years to fight this trade action. This does not include the massive sums spent by Canadian provincial governments, the Canadian federal government and R-Calf itself. For its part, R-Calf said it would now devote more resources to other issues, such as country-of-origin labeling for beef, pressing for an end to USDA grading on imported carcasses and getting inter-state shipment of state-inspected meat approved.

[See the R-Calf press release related to the withdrawal of the appeal.]
<http://www.rcalf.com/>

[See the March 9, 2000 press release by the Canadian Cattlemen's Association with respect to the termination of this case.]

<http://www.cattle.ca/>

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7. FIRST SHIPMENT OF U.S. SLAUGHTER HOGS IMPORTED INTO ONTARIO UNDER PSEUDORABIES PROTOCOL

April 14, 2000 marked the first shipment of U.S. slaughter hogs into Canada since the Canadian Food Inspection Agency simplified its import requirements for slaughter hogs in October, 1999. Under the simplified import requirements, producers from states that have reached Stage IV or Stage V under the U.S. Accelerated Pseudorabies Eradication Program (APEP) may ship slaughter hogs to approved Canadian plants if certain technical requirements are met.

The April 14 shipment of 185 hogs originated on a Michigan farm and was destined for Maple Leaf Foods' plant in Burlington, Ontario. Besides Michigan, there were 37 other U.S. states that were in either Stage IV or Stage V of the APEP as of March 1, 1999. Pseudorabies is a viral disease that primarily affects pigs but that can affect other species, such as dogs, raccoons and rats, as well.

[See an April 14, 2000 press release from the National Pork Producers Council with respect to the shipment of hogs from Michigan.]

<http://www.nppc.org/NEWS/000414USexport.html>

[For more information on the U.S. Accelerated Pseudorabies Eradication Program, see the Animal and Plant Health Inspection Service section of the U.S. Department of Agriculture website.]

<http://www.aphis.usda.gov/oa/aep/index.html>

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8. NORTH DAKOTA WHEAT COMMISSION THREATENS TO LAUNCH ANOTHER CANADIAN WHEAT BOARD CHALLENGE

Another U.S.-based challenge of the Canadian Wheat Board (CWB) may be in the works. The North Dakota Wheat Commission (NDWC) announced on March 24th that it was proceeding with legal action against unfair trading practices by the CWB. The press release by the NDWC did not indicate the precise nature of the forthcoming action; "anti-dumping, third-country dumping, subsidies, section 201 general import relief, section 301 complaints and WTO complaints" were cited as possible options.

Washington D.C. trade attorney Charles Hunnicutt has been retained by the NDWC to pursue this trade action. NDWC's enthusiasm for launching an action did not appear to be dampened by the fact that the CWB has been the subject of eight unsuccessful (from the U.S. perspective) studies

or investigations over the past decade. These investigations have been conducted by the U.S. International Trade Commission, U.S. General Accounting Office and a Canada - U.S. Free Trade Agreement dispute settlement panel, among others.

Responding to the NDWC statement, Ralph Goodale, the Canadian federal minister responsible for the CWB, characterized it as a "phoney charade" designed to promote local political interests in the U.S. during an election year.

[See the March 24 press release by the North Dakota Wheat Commission.]
http://www.ndwheat.com/in/news/news_detail.asp?ID=91

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9. DFAIT RELEASES MARKET ACCESS PRIORITIES REPORT

On April 5, Canadian Trade Minister, Pierre Pettigrew, released the federal government's Opening Doors to the World: Canada's International Market Access Priorities - 2000 report. This annual report by the Department of Foreign Affairs and International Trade Canada describes "significant market-opening results over the past year and outlines the government's priorities for 2000 to further improve access to foreign markets. It also sets out the range of initiatives that the government will pursue this year at the multilateral, regional and bilateral levels, as well as details on specific obstacles to be tackled in several markets".

Some highlights of the 2000 report with respect to trade with the U.S., include the following:

- a recognition of the increased level of consultation between U.S. state and Canadian provincial governments on agri-food trade issues;
- satisfaction that Michigan is phasing out its 2.2 percent Single Business Tax (the tax harms Canadian corporations doing business in Michigan) by 0.1 percentage points each year over 23 years;
- an indication that Canada will pressure the U.S. to comply with a 1992 GATT panel ruling on discriminatory U.S. federal and state measures with respect to imported beer, spirits and wine; and
- a statement of the need to streamline border measures as part of the Shared Border Accord of 1995.

The report also notes continued Canadian concern and action around issues relating to hemp, country-of-origin labeling, and "hold and test" requirements for produce exported to the U.S.

[A complete copy of the report can be accessed on the DFAIT website.]
<http://www.dfait-maeci.gc.ca/tna-nac/2000/menu2000-e.asp>

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10. CANADA - CHINA DEAL OPENS WAY FOR POTENTIAL PORK EXPORTS

An agreement with China should open the door to significantly higher pork exports to that country in the future. On April 17, Canadian Agriculture and Agri-Food Minister, Lyle Vanclief, signed a pork protocol agreement with Mr. Li Changjiang, Chief Administrator of China's State Administration for Entry-Exit Inspection and Quarantine (CIQ-SA).

The agreement deals with China's acceptance of Canadian Food Inspection Agency (CFIA) data related to Porcine Respiratory and Reproductive Syndrome (PRRS) and transmissible gastroenteritis (TGE). In the past, Chinese requirements relating to these two conditions effectively prohibited Canadian pork exports. The negotiations followed on the inspection earlier this year of a number of Canadian meat plants by the CIQ-SA. Following the inspections, and under the new agreement, an approval system has been established between Canada and China on meat exports.

The Canadian Pork Council had strong praise for CFIA officials for their efforts in opening up the Chinese market. Although China has a population of 1.3 billion, less than one percent of Canadian pork exports in 1999 were destined for that market.

[See an April 20 press release from the Canadian Pork Council expressing satisfaction with the agreement.]

<http://www.canpork.ca/2000-04-20.PDF>

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11. FEDERAL GOVERNMENT SEEKS INDUSTRY VIEWS ON POTENTIAL FREE TRADE TALKS WITH COSTA RICA

In March the federal government announced it was soliciting the views of Canadians with respect to the potential negotiation of a Canada - Costa Rica Free Trade Agreement. This initiative followed on an earlier invitation from Costa Rica to explore the possibility of developing closer economic relations between Canada and central American countries. In 1999, Canada had total exports to Costa Rica valued at \$58.9 million, while imports from Costa Rica were valued at \$176 million.

[See DFAIT website for March 11 Canada Gazette Notice by federal government seeking views of Canadians on possible free trade talks.]

http://www.dfait-maeci.gc.ca/tna-nac/gazette_11mar00-e.asp

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12. FEDERAL GOVERNMENT ANNOUNCES NEW ALLOCATION METHOD FOR CHICKEN TRQ IMPORTS

In February, the Department of Foreign Affairs and International Trade Canada (DFAIT) announced an adjustment in the way it will allocate Canada's chicken import tariff rate quota (TRQ) in 2000 and 2001. DFAIT indicated these changes were necessary to address the "unexpectedly fast growth" in the demand for imported chicken for the manufacture of products not on Canada's Import Control List (ICL). These are products like TV dinners, Chicken Kiev and Chicken Cordon Bleu, products for which there is no tariff protection against imports from the United States. This component of the TRQ is also referred to as the "FTA segment".

The adjustment in the allocation methodology is based on the federal government's view that requests for imports under the FTA segment of the TRQ should be fully met. Fully meeting the demand for imports from the FTA segment, while allowing for some growth in imports for the food service sector and other historical importers, means that the federal government will continue to issue permits for "supplemental imports". Supplemental imports are expected to be in the range of 2.5 to 3.0 million kilograms for each of 2000 and 2001, similar to what they were in the past two years. Supplemental imports are in addition to the normal 7.5 percent of the previous year's domestic production of chicken, which Canada imports each year as part of its commitment under the Canada - U.S. Free Trade Agreement.

The federal government announced the adjustment in the allocation methodology after the industry-led Tariff Quota Advisory Committee indicated it was unable to agree on a consensus recommendation to the government on this issue.

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13. INTERNAL TRADE PANEL RULES ON P.E.I. - NOVA SCOTIA DAIRY DISPUTE

On January 18, a Panel established pursuant to the Agreement on Internal Trade (AIT) issued its report in the matter brought by Nova Scotia with respect to amendments to Prince Edward Island's (P.E.I.) dairy licensing regulations. The dispute centred on regulatory amendments implemented by P.E.I. in 1997, which had the effect of rescinding the license of a Nova Scotia plant supplying fluid milk to its sister plant in P.E.I. The Panel concluded that the P.E.I. measures did not comply with AIT obligations set out in Chapter Nine (Agricultural and Food Goods) and Chapter Four (General Rules).

The Panel recommended that P.E.I. "remove from existing licenses conditions relating to the distribution of fluid milk products based on province of origin for goods or on residency for ownership." However, no deadline was specified by which the offending measures were to be brought into compliance with the AIT ruling.

[See the full Panel Report regarding the Amendments to P.E.I.'s Dairy Industry Act Regulations on the AIT website.]

http://www.intrasec.mb.ca/pdf/farmers_e.pdf

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14. UPCOMING EVENTS

May 18, 2000	Scheduled consultation between Canada, the U.S. and New Zealand regarding Canada's implementation of the WTO Appellate Body ruling on dairy exports
June 21, 2000	OMAFRA and the Wisconsin Department of Agriculture, Food and Consumer Protection co-host the Great Lakes Regional Forum in Madison, Wisconsin
June 29 - 30, 2000	Next meeting of the WTO Committee on Agriculture in Geneva
July 4 - 5, 2000	Federal-Provincial-Territorial Ministers of Agriculture Meeting, Fredericton, N.B.
July 27 - 29, 2000	Canada - U.S. - Mexico Trilateral ACCORD (state and provincial agriculture officials) meets in Saskatoon
July 27 - 29, 2000	Canada - U.S. federal-level Consultative Committee on Agriculture (CCA) meets in Saskatoon, concurrent with the ACCORD meeting
October 10 - 12, 2000	Agriculture ministers from the Cairns Group of countries meet in Banff, Alberta

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Agri-food Trade Update

A quarterly review of international trade policy issues and developments
that have implications for the agri-food sector in Ontario

Summer 2000
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1. WTO Committee on Agriculture Holds Second Special Session

As reported in the Spring 2000 edition of Agri-Food Trade Update, in a March 23 and 24 meeting, the WTO Committee on Agriculture agreed on a timetable for trade negotiations over the next year. Consistent with that timetable, the Committee met for its Second Special Session on June 29 and 30, in Geneva. These "special" sessions of the Committee, which is where the actual negotiations are taking place, are being chaired by Jorge Voto-Bernales, Peru's Ambassador to the WTO.

Nine specific negotiating proposals were presented for discussion at the Second Special Session. These were presented by the European Union (EU), United States, Canada, Cairns Group and a group of developing countries. They covered a whole range of issues including domestic support, export subsidies and market access.

Canada submitted a negotiating proposal on market access issues for the June Special Session. This proposal built on principles embodied in Canada's initial negotiating position, released on August 19, 1999. Some of the specific features of the Canadian negotiating proposal on market access included:

- a call for the elimination of tariff escalation between the primary and processed forms of the same product;
- "single stage tariffs", where the final bound duty is above a certain threshold, should be converted to "two-stage tariffs", where a specific quantity of duty free in-quota access is allowed; and
- a suggestion that commitments on over-quota tariffs should take into account the extent of liberalization provided through the tariff quota.

Some of the other negotiating proposals had unique features as well. The Cairns Group negotiating proposal on export subsidies asked for a 50 percent reduction in the use of export subsidies in the first year of implementation of a new agreement. The proposal also called for the elimination of subsidy elements contained in other forms of export competition, such as export credits.

The European Union (EU) presented negotiating proposals on several different issues. With respect to domestic support, the EU asked that the concept of the "blue box" be retained, noting that it expects blue box direct payments will continue to be an important tool for further agricultural reform in Europe. The EU also suggested that it is time to begin discussing animal welfare issues

in the context of the WTO and presented a proposal to link the market access discussions to a need to prevent the "usurpation" of names relating to specific quality and geographical characteristics of differentiated foods.

The United States delivered a negotiating proposal that included a new formula to use for the reduction of WTO members' domestic support. The U.S. proposes that each country's "Aggregate Measure of Support " be reduced to a final bound level equal to a fixed percentage of the member's value of total agricultural production in a fixed base period. Based on this formula, the limit on the level of trade-distorting support provided by each WTO member would be directly linked to the size of its agricultural sector. Other unique features of the U.S. proposal included:

- urging WTO members to reach an agreement on agriculture by the end of 2002;
- not supporting a re-opening of the Agreement on Sanitary and Phytosanitary Measures (consistent with Canada's position);
- eliminating the transitional special safeguard as defined in Article 5 of the Agreement on Agriculture (never used by Canada);
- requiring exporting state-trading enterprises (such as the Canadian Wheat Board) to regularly report acquisition costs, export pricing and other sales information to the WTO; and
- conducting negotiations on export credits in the Organization for Economic Co-operation and Development (OECD).

A group of developing countries consisting of Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador also submitted several negotiating proposals. With respect to domestic support, they lamented the fact that while some of the WTO's key members have stayed within their "Aggregate Measure of Support" reduction constraints, "green box" support to the agriculture sector has in fact skyrocketed since the base period used for the Uruguay Round negotiations. Green box payments in the EU and U.S. have both more than doubled between 1986-88 and 1996. In the case of the EU they went from 9 billion ECU to 22 billion ECU, and in the case of the U.S. from US \$24 billion to US \$51 billion.

The proposal goes on to explain why many of the programs classified in the green box do in fact have significant trade-distorting effects, when fully analyzed. To counter this proliferation of government support through the green box, these WTO members propose that there be only one single "General Subsidies" box. WTO members would then be required to reduce their level of support within the General Subsidies box to a certain percentage of their value of production (similar to U.S. proposal). This proposal would also have the benefit of easing the administrative burden to developing countries of working within a complicated system featuring various types of "boxes", as is currently the case.

In addition to the negotiating proposals presented, the WTO Secretariat itself, has prepared a number of technical background papers on various issues, intended to support the negotiations. The WTO Committee on Agriculture will meet for its next Special Session on September 28 - 29.

[\[See the WTO website for the a report on the Second Special Session of the Committee on Agriculture, held on June 29 and 30, as well as copies of all the negotiating proposals presented.\]](#)

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2. Ontario Introduces Dairy Export Contract Exchange Program

On August 1, 2000, Ontario's dairy export program was put into operation. The program represents months of key discussions between the Ontario Dairy Council (ODC) and the Dairy Farmers of Ontario (DFO) to broker an agreement on how best to respond to the October 1999 World Trade Organization ruling requiring an overhaul of Canada's dairy export practices.

The revised dairy export mechanism requires that all contract offers be posted on a single electronic bulletin board (the Ontario Export Contract Exchange) against which producers can tender bids. The Ontario Export Contract Exchange is administered by an independent private body (the accounting firm of Deloitte & Touche LLP). For the purposes of milk supplied for the manufacture of export products, key elements such as price and volume are determined by private contract between dairy farmers and processors/exporters; the provincial marketing board is no longer involved in regulating export transactions.

Under the terms of the implementation agreement reached between Canada and the U.S. and New Zealand in December 1999, Canada will continue to provide updates to trade representatives of the two countries on progress made in making all provincial dairy export practices WTO-consistent. Canada has until the end of December 2000 to ensure that its dairy exports are no longer subsidized, or alternatively to reduce the level of those exports to conform with its WTO export subsidy reduction commitments for exported dairy products.

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3. ACCORD Meeting in Saskatoon Follows Cross-Border Exchanges in New York and Wisconsin

On July 27 - 29, the 10th Annual Tri-National ACCORD met in Saskatoon, Saskatchewan. The ACCORD is made up of agriculture officials representing U.S. and Mexican state-level agriculture departments and Canadian provincial-level agriculture departments. There are three bi-lateral working groups under the ACCORD. The Canada-U.S. Working Group also acts as the Provinces-States Advisory Group (P-SAG) to the federal officials-level Canada-U.S. Consultative Committee on Agriculture. The P-SAG was formed in 1999 at the ACCORD meeting in Salt Lake City and was intended to serve an important role in advising federal authorities on ways to smoothen Canada-U.S. trade relations in agri-food products.

The P-SAG meeting in Saskatoon was attended by representatives from six Canadian provinces and 14 U.S. states. There was discussion on a number of issues, such as ways to improve harmonization of pesticide and animal health regulations. Canadian P-SAG members expressed their concerns about the potentially detrimental effect on trade if North Dakota implements a piece of legislation, known as Bill 1276. That Bill would require state inspection of agricultural products from Canada; this type of inspection would not be applied to U.S. products and would clearly be a violation of the NAFTA. It was also noted that over the past two years there have been a number of very useful exchanges between government and industry officials from both sides of the border. These exchanges have facilitated a better understanding of issues faced in both countries, with the intent of defusing or preventing potential trade tensions.

Examples of such exchanges include a meeting in New York state in mid-June attended by representatives from most northeastern U.S. states and eastern Canadian provinces. This was followed by a forum in Madison, Wisconsin on June 21, involving state and provincial government representatives from the Great Lakes region. Issues discussed there included biotechnology, dairy policy, phytosanitary issues in nursery ornamentals, meat inspection and animal health trade issues. A meeting in northern Vermont involving cattle industry representatives from the northeastern U.S. and eastern Canada is one of the exchanges that is currently being planned for the next year.

At their Annual Conference in mid-August, Canadian Premiers "strongly endorsed the work of their Ministers of Agriculture in the P-SAG" and "recognized the important role that provinces and territories can play in informal dispute settlement by establishing and maintaining effective working relations with U.S. state governments and their associations". New Brunswick's Minister of Agriculture, Fisheries and Aquaculture, Paul Robichaud, has taken over as the Canadian Co-chair of the P-SAG for the next two years.

[\[See website of the National Association of State Departments of Agriculture \(NASDA\) for a copy of the ACCORD Communiqué.\]](#)

[\[See New Brunswick press release on taking over the Canadian Co-Chairmanship of the P-SAG.\]](#)

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4. Vanclief Delivers Message to Washington on Subsidies

In mid-July, Canadian federal Minister of Agriculture and Agri-Food, Lyle Vanclief, was in Washington, D.C. for key discussions with senior U.S. government officials. In meetings with Secretary of Agriculture, Dan Glickman and United States Trade Representative, Ambassador Charlene Barshefsky, Mr. Vanclief urged the Americans to practice at home what they preach in the global trade policy arena: freer commodity markets less distorted by excessive levels of government support. Mr. Vanclief noted that "U.S. support for wheat is close to eight times more per tonne than it is in Canada." On his trip, Mr. Vanclief was joined by the president of the Canadian Federation of Agriculture, Bob Friesen, who delivered a similar message in his meetings with U.S. farm leaders.

[\[See AAFC press release of July 13, on Minister Vanclief's discussions with U.S. officials.\]](#)

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5. USDA Proposes To Discontinue Grading Of Imported Meat Products; CFIA Moves in Opposite Direction

The United States Department of Agriculture (USDA) has announced that a proposed rule to restrict the USDA grading of imported beef, lamb, veal and calf products will be issued later this

summer. In making the announcement on July 21, Kathleen A. Merrigan, administrator of USDA's Agricultural Marketing Service, said, "the proposed rule will assure U.S. consumers that the USDA grade shield only appears on meat products from livestock processed in the United States." The change is being supported by the National Cattleman's Beef Association (NCBA) and the American Sheep Industry Association. The NCBA characterized the move as an end to the "free ride" that had been enjoyed by imported carcasses.

Arno Doerksen of the Canadian Cattlemen's Association (CCA) stated that the impact of the change would be minimal for Canada, but that it was "a step in the wrong direction". Doerksen indicated that 95 percent of Canada's beef exports to the U.S. are in the form of boxed beef, which already carries the Canadian grade and is not re-graded by the USDA.

Meanwhile, the Canadian Food Inspection Agency (CFIA) is moving in the opposite direction. In a move that is more cognizant of the deeply integrated North American cattle and beef markets, the CFIA passed regulations on July 6 that will allow the application of Canadian grade names to imported carcasses. The regulatory amendment allowing for the grading of imported carcasses had been requested by the Canadian Meat Council and the Canadian Cattlemen's Association.

[\[See July 21 press release by USDA on the proposed rule.\]](#)

[\[See July 31 response by the Canadian Cattlemen's Association.\]](#)

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6. USDA Still Reviewing Proposal to Require Import Licenses for Sugar-Containing Products (SCP's)

In March, the United States Department of Agriculture (USDA) issued a proposed rule that would allow for the licensing of SCPs imported from Canada (see Spring 2000 issue of Agri-Food Trade Update). After the proposed rule was published in the Federal Register, the USDA received 11 comments in favour of implementation and 56 comments opposed to the proposed rule. Many U.S.-based SCP manufacturers are worried that if the proposed rule is implemented, it will be followed by Canada challenging the U.S. SCP Re-Export Program, under the NAFTA. In a 1997 bilateral agreement Canada agreed to not challenge the Re-Export Program; however that agreement can be terminated on six months notice. While there is no deadline by which the USDA must make a decision, a new rule would need to be implemented very soon in order to be operational in time for the start of the next U.S. sugar marketing year, on October 1, 2000.

In a related development, the Canadian Department of Foreign Affairs and International Trade (DFAIT) issued a Notice to Exporters on June 19, 2000 amending an earlier change to its policy on issuing export permits for SCPs. Under a policy introduced in 1999, DFAIT was gradually shifting a portion of the SCP export allocation from shipments of bulk products to value-added retail-ready products. However, the June 19, 2000 Notice to Exporters rescinded that policy, citing "unrelated business decisions".

[\[See DFAIT's June 19, 2000 Notice to Exporters of Sugar-Containing products.\]](#)

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7. CITT to hold Hearings as part of Review of Findings Concerning Refined Sugar

The Canadian International Trade Tribunal (CITT) indicated on March 9, 2000 that it would conduct a review of its November 1995 finding with respect to dumped and subsidized sugar. The CITT made this decision after soliciting comments on whether a review should be conducted (Winter 2000 Agri-Food Trade Update). The review will focus on the issue of whether the threat of injury to the domestic industry is likely to recur if the dumping and countervail duties are removed. Without a review, the duties would have automatically expired.

A group, known as the Canadian Sugar Users' Coalition has been formed to argue for the termination of the duties. The CITT will hold public hearings as part of its review, beginning on September 11. Its decision on the case is due on November 3, 2000.

[\[See the CITT's March 9 Notice of Review of Findings Concerning Refined Sugar.\]](#)

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8. Manitoba Corn Growers Allege Subsidization and Dumping of U.S. Corn

On August 10, Canada Customs and Revenue Agency (CCRA) announced that it had started a dumping and subsidy (countervail) investigation of corn imported into western Canada (west of the Ontario-Manitoba border) from the United States. The investigation is the result of a complaint lodged by the Manitoba Corn Growers Association (MCGA) earlier this summer. The Canadian International Trade Tribunal (CITT) will make its preliminary injury decision within 60 days (by October 9), while the CCRA will make its preliminary determination of dumping and subsidy within 90 days (by November 8).

Based on information contained in the complaint submitted by the MCGA, the CCRA has concluded there is evidence that dumping and subsidy of a material nature has occurred and that there is a reasonable indication that this has caused injury to the western Canadian grain corn industry. Based on samples of transactions reviewed so far, CCRA has found an overall average margin of dumping of 40 percent. On the subsidy side, the MCGA pointed to two key U.S. programs (non-recourse marketing assistance loans and loan deficiency payments and various

ethanol incentive programs at the federal and state levels), along with 15 other programs that will be examined as part of the investigation. CCRA found that the loan gains and loan deficiency programs, alone, represented approximately eight to 13 percent of the value of the subject goods in 1998 - 2000.

Consumption of grain corn in western Canada has been on an upward trend over the past five years, going from 17.3 million bushels in 1995/96 to a projected 27.1 million bushels in 2000/01. At the same time, western Canadian production has increased by about 100 percent from 4.7 to 9.5 million bushels, while imports from the U.S. have gone from 9.5 to 17 million bushels. The MCGA alleges that it has suffered injury in the form of price suppression, lost sales, reduced income, impaired lines of credit and lost incentive to expand production in a growing market.

In order to consider western Canada as a regional market for this investigation, two conditions had to be met. Producers in the region 1) must sell all, or almost all, of their production in the region; and 2) demand in the regional market must not be supplied to any substantial degree by producers in the rest of Canada. The CCRA felt both of these conditions were met. Of note, western Canadian corn production is less than 3 percent of the Canadian total.

In order for the investigation to be initiated, the Special Import Measures Act (SIMA) requires that it has the support of industry. The threshold levels are that at least 50 percent of producers expressing an opinion either in favour, or opposed, must support the investigation. Those producers (supporting the investigation) must account for at least 25 percent of total corn production in the region. The complaint was brought by the 391 producers who make up the MCGA and produce approximately 89 percent of the corn grown in western Canada. The 12 producers making up Bow Island Corn Marketing in Alberta, account for the rest. Bow Island neither supports, nor opposes, the complaint.

The investigation applies to grain corn in all forms, with the exception of white dent corn, which is used mainly in tortilla and snack food manufacture. Also excluded from the investigation are sweet corn (in all forms), seed corn and popping corn.

[\[See the August 10 press release from CCRA.\]](#)

[\[See a copy of the Statement of Reasons, supporting the initiation of the investigation by CCRA.\]](#)

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9. Ontario Garlic Growers Denied by CITT

Ontario garlic growers have been denied a request for an interim review of the Canadian International Trade Tribunal's (CITT) finding of injury with respect to dumped Chinese garlic. The CITT made the injury finding in March of 1997, but only applied it to fresh garlic imported into Canada from the People's Republic of China from July 1 to December 31, inclusive, of each calendar year. The Garlic Growers Association of Ontario (GGAO) is of the view that Chinese exporters have been able to circumvent the dumping duties, given their seasonal application. Large volumes of Chinese garlic are imported into Canada during the months when the duties are

not in place, held in storage, and then released for distribution once the duties kick in again.

In its June 12, 2000 decision the CITT ruled that it did not have jurisdiction to conduct an interim review of garlic imported into Canada from January 1 to June 30 of each year. This was based on the fact that the original injury finding by the CITT applied only to garlic imported during the second half of each calendar year. The practical result of the June 12 decision is that if the GGAO wishes to have dumping duties applied year-round it will need to petition the Canada Customs and Revenue Agency (CCRA) to initiate a whole new investigation.

In its original dumping investigation the CCRA found a weighted average margin of dumping of 70 percent for Chinese garlic imported into Canada. These dumping duties will remain in place for five years from the date of the original Finding of Injury in March 1997. At that time they will be the subject of an automatic review.

According to the Request for Review by the GGAO, the percentage of total annual garlic imported from China during the first half of each calendar year went from 7.6 percent in 1996, to 93.1 percent in 1999. When making its Finding of Injury in 1997, the CITT stated that it considered the potential for the circumvention of seasonal dumping duties to be no more than "a remote possibility". This reasoning appeared to be based on the CITT's experience in the application of seasonal anti-dumping duties in imported potatoes. In its Finding, the CITT also took the view that domestic garlic growers would only be able to supply a small part of domestic market requirements, for some time into the future.

In 1996 there were 624 acres of garlic harvested in Ontario, filling less than one percent of Canada's total domestic garlic consumption needs.

[\[See a copy of the CITT's June 12 Decision and Statement of Reasons.\]](#)

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10. Canadian Beef Plants Approved for Export to China

Nine Canadian beef processing plants have received approval to export beef and beef products to the People's Republic of China. This accommodation was recently agreed to by Li Changjiang, Chief Administrator of China's State Administration for Entry-Exit Inspection and Quarantine, in discussions with Ron Doering, President of the Canadian Food Inspection Agency (CFIA) . The market opening agreement for Canadian beef follows a similar arrangement agreed to earlier this year with respect to pork exports (see Spring 2000 issue of Agri-Food Update). The statement by the CFIA did not indicate which plants had been approved.

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11. Canada Pursues Free Trade Negotiations with Costa Rica; Considering Same for Singapore

The Government of Canada announced on June 30 that it would be launching free trade negotiations with Costa Rica. The first negotiating sessions were held in Ottawa from July 11 - 14. As reported in the Spring 2000 issue of Agri-Food Trade Update, the Canadian federal government had been consulting Canadians this spring on the possibility of launching such negotiations. In making the announcement on June 30, International Trade Minister Pierre Pettigrew also indicated that Canada would try to establish a comprehensive framework on competition policy as part of the negotiations, with the hope that this framework could serve as a model for the region. The two national governments hope to conclude negotiations by as early as Spring 2001.

Meanwhile, the Government of Canada is also consulting Canadians on the possibility of free trade negotiations between Canada and Singapore. According to a Notice published in the Canada Gazette on June 17, Canada has a significant trade deficit with Singapore. Imports from Singapore in 1999 were valued at \$1.2 billion, while exports were valued at \$367 million. Information technology parts are a significant component of this trade in both directions, while Canada also exports items like cobalt, nickel, newsprint and turbo-jet parts. While the Canada Gazette Notice did not indicate why Singapore was being targeted at this time for possible free trade negotiations, it was noted that Singapore is a country with a highly-competitive economy. Its economy was the least affected of any in the region during the 1997/98 financial crisis.

[See DFAIT website for June 30 press release on launch of Canada-Costa Rica free trade negotiations.](#)

[\[See DFAIT website for June 17 Canada Gazette Notice on consultations regarding potential Canada-Singapore free trade negotiations.\]](#)

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12. Upcoming Events and Activities

September 11, 2000

First day of CITT hearings in Review of Findings
Concerning Refined Sugar, Ottawa

September 14, 2000	OMAFRA-sponsored seminar on The WTO and Food Safety at the Regal Constellation Hotel in Toronto. Call Marilia Vorauer at (519) 826-3494 for a copy of the agenda or to register
September 28 - 29, 2000	Special Session of the WTO Committee on Agriculture, Geneva
October 3 - 6, 2000	Free Trade of the Americas (FTAA) Negotiating Group on Agriculture meets in Miami
October 12 - 14, 2000	Agriculture Ministers from the Cairns Group of countries meet in Banff, Alberta
November 3, 2000	CITT to issue Order and Statement of Reasons in Review of Findings Concerning Refined Sugar

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Agri-food Trade Update

A quarterly review of international trade policy issues and developments
that have implications for the agri-food sector in Ontario

Fall 2000

Posted November 24

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Agri-Food Trade Update is written by Sid Friesen and Bobby Seeber of the Policy and Farm Finance Division of the Ontario Ministry of Agriculture, Food and Rural Affairs. Please direct any inquiries or comments to Sid Friesen, by telephone at (519) 826-3234, by mail at 1 Stone Rd. W., Guelph, Ontario N1G 4Y2 or by e-mail to sid.friesen@omafra.gov.on.ca.

1. Cairns Group Agriculture Ministers Confer in Banff

Banff, Alberta was the setting when the agriculture ministers from the Cairns Group of countries met to discuss negotiating strategies from October 10 – 12, 2000. Cairns agriculture ministers reiterated their long-term goal of seeking the elimination of export subsidies and trade-distorting domestic support. The communiqué released at the end of the meeting noted that total support for farmers in developed countries has now reached U.S. \$360 billion, annually, just as high as in the mid 1980's.

The Cairns Group has now presented negotiating proposals on the issues of export subsidies and domestic support to the WTO Committee on Agriculture. A negotiating proposal on market access issues was prepared just after the Banff meeting (see related article), for tabling at the November negotiating session of the WTO Committee on Agriculture. Canada's Minister of Agriculture and Agri-Food, Lyle Vanclief, indicated in Banff that Canada "will stand with the Cairns Group in areas of mutual interest, while always maintaining the right to pursue Canadian national interests".

Apart from members of the Cairns Group, Franz Fischler, the Agriculture Commissioner of the European Union and Youssef Boutros-Ghali, the Egyptian Minister of Agriculture, were also invited to the meeting. Minister Vanclief took advantage of Commissioner Fischler's presence in Banff to again voice Canada's strong objections to the use of export subsidies by the Europeans and to press for improved access to the European Union for Canadian wines. In a bilateral meeting with his counterpart from the Philippines, Minister Vanclief signed an MOU on cooperation in areas like quarantine, inspection systems, rural development and water management.

As is their tradition, farm leaders from the Cairns Group of countries also met in Banff in a meeting parallel to that of the agriculture ministers. In preparation for the meeting, the farm leaders had released a publication entitled *Solving the Problem: A Look at the Political Economy of Agricultural Reform*. The publication notes the powerful political forces that are resisting reform of agricultural protectionism and declares that overcoming these political forces will require equally powerful counterforces. These counterforces would include the Cairns Group countries, consumers in rich countries, developing countries (other than Cairns Group members), the treasuries of wealthy countries, exporters of manufactured goods and organizations like the WTO, International Monetary Fund and World Bank.

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2. Cairns Group Market Access Proposal Goes Ahead Without Canada

The Cairns Group of countries has tabled a WTO negotiating proposal on market access. The November 10 proposal was discussed at the November 16 and 17 negotiating session by the WTO Committee on Agriculture. The proposal aggressively called for "vastly improved market access opportunities for all agricultural and agri-food products". With respect to tariffs, the document called for "deep cuts to all tariffs using a formula approach which delivers greater reductions on higher level tariffs, including tariff peaks, and eliminates tariff escalation, and establishes maximum levels for all tariffs." The Cairns Group also called for the elimination of the special

agricultural safeguard mechanism contained in Article 5 of the Agreement on Agriculture.

While Canada is a member of the Cairns Group, it did not support the negotiating proposal on market access. In a November 9 press release by Agriculture and Agri-Food Canada, it was noted that the Government of Canada had put forward its own proposal on market access in June of this year. The November 9 press release did not provide specific information on why Canada could not support the Cairns proposal. Fiji was the other Cairns member that did not support the market access proposal.

[\[See the Cairns Group market access proposal on the WTO website.\]](#)

[\[See the Government of Canada November 9 press release in response to the Cairns Group market access proposal.\]](#)

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3. U.S., Transition Economies and ASEAN Countries Also Submit Proposals for November Special Session

Apart from the Cairns Group, a number of other countries, or groups of countries, submitted negotiating proposals for the Agriculture Committee's November negotiating session. The United States put forward a proposal on tariff rate quota reform. The U.S. prescribes various reforms designed to ensure that poor administration of TRQs does not act as a barrier to filling these quotas.

Specifically, it is proposed that within-quota duties be based on historical quota fill; the lower the fill rate, the greater the reduction in the within-quota duty. Unlike Canada, however, the U.S. does not go so far as to suggest that within-quota duties should be eliminated. The U.S. also proposes that TRQ quantities should be increased *substantially* and that over-quota duties should be reduced *substantially*. However, in neither case do they provide any specific guidance as to what is meant by that term.

In addition to the U.S. proposal, there have been two submissions by a group of countries consisting mostly of eastern European states and former members of the Soviet Union. There has also been a proposal from the ASEAN countries. The eastern European transition economies are arguing in their proposals that the recovery of their agricultural sectors is of utmost political importance and that this reality needs to be reflected in any negotiated outcome. The ASEAN countries have proposed that the negotiations must take into account the underdevelopment of agriculture in developing countries and that "special and differential treatment" for developing countries must remain an integral part of the reform process.

[\[View all negotiating proposals on the WTO website.\]](#)

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4. Global Sugar Alliance Calls for Fundamental Trade Reform

The Global Alliance for Sugar Trade Reform and Liberalisation met in Banff, Alberta, concurrent with the Cairns Group meeting. The Global Alliance is calling for fundamental reform of trade for sugar, including the elimination of export subsidies and trade-distorting domestic support. In the area of market access, the goal is to eliminate both within-quota and over-quota tariffs. The October 9 statement from the Global Alliance asks negotiators to focus on the fundamental benefits of liberalization for developing countries, rather than on the concessions that developed countries are expected to make.

The Global Alliance for Sugar Trade Reform and Liberalisation has industry representation from Australia, Brazil, Columbia, Canada, Honduras, India, Thailand and South Africa. With the exception of India and Honduras, these are all Cairns Group countries. In Canada, the Canadian Sugar Beet Producers and Canadian Sugar Institute support the Global Alliance.

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5. Negotiating Proposals Considered at WTO Committee on Agriculture Special Session in September

The WTO Committee on Agriculture held its third Special Session in Geneva on September 29 and 30. It is at these Special Sessions that the mandated trade negotiations on agriculture are being held. As was the case for the June negotiating session, this meeting saw the discussion of a number of new negotiating proposals. Specific negotiating proposals were put forward by the Cairns Group (domestic support), Mercosur countries together with Chile, Bolivia and Costa Rica (export subsidies) and the European Union (export competition).

Highlights of the Cairns Group proposal on domestic support included the following:

- there should be an overall cap on domestic support;
- all trade-distorting support in the "amber" category (also known as "Aggregate Measure of Support" or "AMS") and blue box programs (based on a fixed level of production) should eventually be eliminated. No specific reduction formula was proposed except that there should be a 50% reduction (downpayment) in the first year of implementation of a new agreement;
- AMS reductions should be implemented on a disaggregated (commodity-specific) basis; and
- the green box criteria should be reviewed.

The Mercosur proposal makes the argument that export subsidies should be eliminated. What is perhaps more striking about this proposal is that the argument for the elimination for export subsidies is based on the strong contention that export subsidies actually work against the food security interests of developing countries.

With respect to its negotiating proposal on export competition, the EU expressed its willingness to negotiate further reductions in export subsidies, but only if other forms of export competition are also further disciplined. Specifically, the EU refers to the potential for distortive trade being conducted through the use of export credits, food aid, and state-trading enterprises (STEs). On export credit, the EU wants negotiations in the OECD to get more serious, stating they have been unsuccessful so far "...notably due to the lack of willingness to agree on strict disciplines from the main user of export credits [U.S.]". On food aid the EU proposal asserts "it is a disgrace that food availability should increase when prices are low and be curtailed when it is most needed against a background of high commodity prices." On STEs the contention is made that they "may be able to cross-subsidize sales in export markets" and therefore disciplines may be required in order "to limit the anti-competitive effect of STEs in international trade of agriculture and food products".

The WTO Committee on Agriculture met for its most recent Special Session on November 16 and 17, 2000 (see related articles).

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6. Compliance Challenge Likely in WTO Dairy Dispute

Dairy Farmers of Ontario (DFO) and the Ontario Dairy Council (ODC) established a revised dairy export structure, effective August 2000 (see *Agri-Food Trade Update*, Summer 2000). An amendment to the existing structure was necessary to comply with World Trade Organization rulings and the timeline for implementation as set out in an agreement reached between Canada and the U.S. and New Zealand.

The Ontario Export Contract Exchange Program (ECE) comprises a single electronic bulletin board administered by an independent, outside firm (Deloitte & Touche). There has been significant traffic on the exchange since implementation, particularly from processors seeking stable milk supplies for export manufacture. Milk supply is currently very tight, which has translated into escalating prices on the exchange, currently hovering between \$25-35/hl for mostly short-term contract offers.

As part of the implementation agreement, a consultation session was held in October 2000 involving Canadian (including OMAFRA staff), U.S. and New Zealand trade representatives. The complaining parties continued to challenge Canada's export practices despite the changes made at the provincial level. They suggested that as long as a regulated domestic price for milk exists in Canada, and this price exceeds the export price, Canada cannot export dairy products free of subsidization. It is their contention that any exports above Canada's subsidy reduction commitments are subject to further challenge.

On this basis, it appears that a compliance challenge is very likely. Such a challenge involves an assessment of whether Canada has sufficiently responded to the Appellate Body ruling issued in October 1999, a process that could take six to nine months.

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7. USDA Withdraws Import Licensing Proposal for Sugar-Containing Products

The U.S. Department of Agriculture (USDA) has withdrawn its proposed rule to establish licensing for certain sugar-containing products under tariff-rate quota. According to the notice in the September 25 *Federal Register*, USDA felt it was "appropriate" to withdraw the proposed rule, given that the Department of Foreign Affairs and International Trade Canada (DFAIT) had on June 20, 2000 rescinded its official policy of giving preference to retail-packaged sugar-containing products (SCPs) when allocating export permits.

When the proposed rule was initially published by USDA on March 17, 2000 (see *Agri-Food Trade Update*, Spring 2000) U.S.-based SCP manufacturers issued a strongly negative reaction. To a large extent their reactions were linked to fears that the implementation of the importing licensing proposal could threaten the long-term future of the U.S. Re-Export Program for SCPS.

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8. USTR Proceeds with Section 301 Investigation of CWB Practices

Following through on their threat, on September 8, 2000, the North Dakota Wheat Commission (NDWC) filed its Section 301 petition to launch an investigation of the Canadian Wheat Board. USTR Charlene Barshefsky announced on October 23rd that her department would initiate an investigation of the CWB in response to the NDWC petition.

As the term implies, Section 301 petitions are filed under Section 301 of the *U.S. Trade Act of 1974*. The petition by the NDWC "requests the President to take all appropriate and feasible action within his power to end the unreasonable and unjustifiable discriminatory pricing activities engaged in by CWB". Further, the NDWC wants

action taken to "investigate and implement effective actions which would offset the discriminatory effect of such activity, particularly in third country export markets". Quantitative restrictions on Canadian hard red spring wheat and durum shipments into the United States by means of a quota, tariff-rate quota or voluntary restraint are also proposed.

As expected, the Canadian government has strongly condemned this latest U.S. attack on the CWB by U.S.-based interests. Ralph Goodale, the federal Minister responsible for the CWB unleashed a terse condemnation of the investigation in a speech given at South Dakota State University on September 28. CWB chair Greg Arason and Canada's Ambassador to the United States, Michael Kergin, have been equally as critical of the petition by the NDWC and subsequent investigation by the USTR. In an October 6 letter to Ambassador Barshefsky, Mr. Arason denounced the NDWC petition for relying on "inflammatory rhetoric and allegations".

This next phase of USTR's investigation could take up to one year. Under U.S. law, USTR could pursue a number of options ranging from dropping the investigation to launching a case in the WTO (assuming that USTR felt there were in fact certain CWB practices that are in violation of some provision of the WTO).

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9. U.S. Senate Committee Hearing on *Trade Injury Compensation Act*

On September 25, the United States Senate Subcommittee on Forestry, Conservation and Rural Revitalization held hearings on *S. 2709 Trade Injury Compensation Act (TICA) of 2000*. The proposed legislation recognizes that retaliation against the European Union for its refusal to comply with a WTO ruling against its beef hormone ban has failed to benefit the U.S. cattle industry. As such, TICA would establish a trust fund into which would flow revenues from tariffs collected on items which are subject to retaliation in the form of 100 percent tariffs. Thirty-six million dollars (U.S.) of such goods have been imported into the U.S. since the retaliatory tariffs were put in place on July 29, 1999. Under TICA, a National Promotion and Research Board would be established to administer these revenues for the benefit of the cattle industry by designating them for use in market development, consumer education and promotion of the beef industry in overseas markets.

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10. U.S. House Committee Holds Hearing on Country-of-Origin Meat Labeling

The Subcommittee on Livestock and Horticulture, of the U.S. House Committee on Agriculture held hearings on September 26, 2000, on the proposed *H.R. 1144 Country-of-Origin Meat Labeling Act*. The proposed legislation is supported by the National Farmers Union (NFU), Ranchers-Cattlemen Action Legal Fund (R-Calf), and American Farm Bureau Federation (AFBF) and opposed by the American Frozen Food Institute (AFFI), Food Marketing Institute (FMI) and American Meat Institute (AMI). This is only the latest in a recent string of such legislative proposals and would require that "all meat and meat food products", whether imported or not, be labeled as to country of origin. As proposed in *H.R. 1144*, to be considered of U.S. origin, the meat would need to be from animals that were certified to have been born and raised in the U.S. without ever having left the country.

In 1999, Senator Johnson from South Dakota tried to attach a mandatory meat country-of-origin labeling bill to the *Agriculture Appropriations Act*. In conference, that particular piece of labeling legislation was replaced with a commitment to ask USDA to undertake a study of the costs and benefits of such a system. USDA's study was released in January of this year but it did not take a firm position one way, or the other.

At the hearing, Caren A. Wilcox, USDA Deputy Under Secretary for Food Safety, indicated that she views this

primarily as a *marketing* issue as opposed to a *food safety* issue (noting that imported meat is already required to meet all the same food safety standards as U.S.-processed meat is). However, from the testimony presented it was clear that many of the cattle industry witnesses view country-of-origin labeling as an information vehicle to allow consumers to avoid buying imported beef of "inferior" quality or safety. Ms. Wilcox also noted that a mandatory country-of-origin labeling scheme would bring with it major costs related to: (1) segregating and preserving product identity; (2) labeling; (3) enforcement; and (4) market disruption. The American Meat Institute (AMI) estimated these combined costs could be as much as \$1 billion annually, including \$268 million at the farm level alone, for a new mandatory animal identification system.

On a related note, on September 8th the AFBF, AMI, FMI, NCBA and National Meat Association wrote Secretary Glickman to indicate they had agreed on a voluntary country-of-origin beef labeling proposal and to ask for USDA's support to implement it. Under this voluntary approach, cattle producers and packers could label their beef as "Beef: Made in the USA" followed by the words "this beef is processed from cattle raised and fed for at least 100 days in the United States". This approach was not supported by groups like the NFU and R-Calf, who felt the 100 day threshold would allow too many Canadian and Mexican born and raised cattle to benefit from the program. Secretary Glickman has not yet responded to the groups' request for a voluntary certification/labeling program.

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11. CITT Ruling Continues Anti-Dumping and Countervail Duties on Imported Refined Sugar

The Canadian International Trade Tribunal ("CITT" or "Tribunal") has completed its Section 76 (2) review of a 1995 finding on dumped and subsidized refined sugar. In the November 6, 1995 *Finding*, the CITT determined that dumped imports of refined sugar from the United States, Denmark, Germany, the Netherlands and the United Kingdom threatened to cause material injury to the domestic industry. The same finding was made with respect to subsidized imports of refined sugar from the European Union. In its ruling on November 3, 2000, the CITT continued the findings from 1995. Since 1995, anti-dumping duties of 79 percent have been imposed on refined sugar from the U.S. and countervailing duties of 50.79 ECU/100 kg. have been imposed on imports of sugar from the European Union (EU).

As part of the *Review*, the CITT held public hearings from September 11 to 15, 2000. At the hearings, the Canadian Sugar Institute, supported by the Canadian Sugar Beet Producers' Association, argued for the continuation of the duties. Some of the participants presenting opposing arguments at the hearing were the Canadian Sugar Users Coalition, the Canadian Competition Bureau, Hershey Canada, Effem Foods and a number of U.S.-based sugar interests.

During the hearing, the Competition Bureau argued that in the absence of duties imported sugar would penetrate no more than ten percent of the domestic market within three to five years. This argument was ultimately not accepted by the Tribunal. One of the factors the Tribunal took into account was the current over-supply of sugar in the U.S. and the fact Canada would be seen as an attractive market for this surplus sugar, given the lack of profitable alternatives for its disposal. The CITT further noted that domestic refiners would need to meet price competition from imported sugar in order to sustain refining volumes in their highly-capitalized plants. As such, the Tribunal was of the view that dumped and subsidized imports would have an injurious impact on the domestic industry.

One of the issues that arose during the review was whether the CITT should conduct a public interest hearing, as provided for in Section 45 of the Special Import Measures Act (SIMA). After reviewing the evidence, the Tribunal determined that the SIMA does not allow for this type of public interest investigation in a Section 76 review. After conducting the public interest hearing in its initial investigation in 1995, the CITT had concluded that there was no public interest issue which warranted the reduction or elimination of the duties.

[[See CITT Order of November 3, 2000, along with its *Statement of Reasons*.](#)]

[[See Canadian Sugar Institute reaction to the CITT Order.](#)]

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12. CCRA Starts Another Investigation on Dumped Garlic

Another investigation on dumped garlic is under way. Canada Customs and Revenue Agency (CCRA) stated on October 31st that it was initiating another investigation on garlic dumped into Canada. In addition to the People's Republic of China (PRC), this time the investigation also applies to Vietnam. Anti-dumping duties are already in place for garlic imported into Canada from the PRC. Those duties were imposed in late 1996, but when the Canadian International Trade Tribunal (CITT) made its *Finding of Injury* in that case, it was only applied to imports between July 1 and December 31 of each calendar year (see *Agri-Food Trade Update*, Summer 2000). The current investigation does not apply to garlic that is subject to the CITT's injury finding from the earlier case.

The current investigation is supported by the Garlic Growers Association of Ontario (GGAO), which accounts for 68 percent of Canadian garlic production. In addition, the complaint is supported by 14 garlic growers who are not members of the GGAO. As such, the CCRA was satisfied that the complaint had "standing", as required under the Special Import Measures Act (SIMA).

It will be interesting to see what methodology the CCRA uses to determine whether, or not, dumping is occurring. Traditionally, the PRC has been viewed as a non-market economy, requiring the CCRA to use the "constructed cost" method to determine the *normal value* of goods imported into Canada or base the *normal value* on the cost of production in a suitable surrogate market economy. In the 1996 investigation, Mexican costs of production for garlic were used as a surrogate to determine the *normal value* for Chinese garlic. The CCRA has indicated that for this investigation they are prepared to treat the PRC and Vietnam as market-based economies if their responses to the CCRA questionnaire support this direction.

The CITT will make its preliminary determination of injury for this case on December 29, 2000, followed by CCRA's preliminary determination of dumping by January 28, 2001.

[[See CCRA's October 31, 2000 *Statement of Reasons* concerning the initiation of this new garlic dumping investigation.](#)]

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13. CCRA Imposes Anti-Dumping Duties on U.S. Corn

The Canada Customs and Revenue Agency (CCRA) has announced the imposition of a US \$1.58 per bushel provisional duty on U.S. corn imported into western Canada. Of this duty, \$1.01 is on account of dumping, as determined by the CCRA, and \$0.57 is the determined level of subsidy per bushel. In this case dumping was determined to have occurred on account of the fact that corn is sold below its cost of production.

On August 10th the CCRA announced it was initiating the investigation (see *Agri-Food Trade Update*, Summer 2000). The Canadian International Trade Tribunal (CITT) then stated (on October 10th) that there was a *reasonable*

indication that the dumped and subsidized corn had caused injury to the domestic industry. The next phase of this investigation will happen on February 5, 2001, by which date CCRA must make its final dumping and subsidy determination. Then on March 7, 2001 the CITT must make its final ruling on whether material injury has occurred, or is likely to occur. If the injury finding is negative, then all duties collected would be returned and the investigation terminated.

The corn investigation and the October 10th decision by the CITT has drawn the attention of United States Trade Representative Charlene Barshefsky and Secretary of Agriculture Dan Glickman. In an October 11 press release Ambassador Barshefsky and Secretary Glickman expressed *disappointment* over the decision and indicated they would be seeking a 45-day delay in the next process in this investigation. This delay was not granted by Canadian federal authorities.

[[See the *Statement of Reasons* for the Preliminary Dumping and Subsidy Determinations on the CCRA website.](#)]

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14. CITT Ruling will Continue Anti-Dumping Duty on U.S. Potatoes into B.C.

On September 13, 2000, the Canadian International Trade Tribunal (CITT) ruled that it would continue with the anti-dumping (AD) order on potatoes imported into British Columbia, from the United States. This ruling completed the CITT's five-year review of an order made by the CITT on September 14, 1995 (which itself was a five-year review of AD duties originally imposed in the mid-1980s). The anti-dumping duty order only applies to whole potatoes imported into British Columbia (B.C.) and it only applies from August 1 to April 30 of each year.

The Special Import Measures Act (SIMA) requires that three conditions be met before the CITT can make a ruling to continue an AD order (same conditions apply to a countervailing duty order). First, they must be satisfied that the region in question is in fact still a regional market (where applicable). Its analysis of the structure of the B.C. potato market led the CITT to believe that this condition was still being met. Second, they must believe that dumping would continue, or resume, if the AD order were lifted. In this regard, the CITT was satisfied that dumping would in fact continue if the AD order was rescinded. Thirdly, the Tribunal must determine whether the resumed, or continued, dumping is likely to cause "injury" to the domestic industry.

On the third point, the Tribunal was also satisfied that injury would likely occur. They generally accepted the analysis provided by the British Columbia Vegetable Marketing Commission (BCVMC), which showed that the B.C. potato industry had generated profits of \$5.5 million between 1996 and 1999, which would have been a loss of \$2 million, had the AD order not been in place.

[[See the CITT website for a copy of the *Order and Statement of Reasons* on Potatoes.](#)]

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15. Canadian Agri-Food Trade Research Network Debates Progress in Agricultural Trade Liberalization

The Canadian Agri-Food Trade Research Network (CATRN) is comprised of Laval University, the University of Guelph and the University of Saskatchewan. Its mandate is to enhance the level of academic training and research within Canada with respect to agri-food trade policy. A further goal is to promote debate and understanding of relevant issues among academics, federal and provincial trade policy officials and the industry itself.

In pursuit of this latter goal, the CATRN organized a workshop held in Quebec City on October 27 and 28, 2000. The workshop provided an opportunity for leading agricultural trade policy academics from Canada and the U.S. to discuss issues related to the workshop title, "Agricultural Trade Liberalization: Are we Making Progress?" The format of the workshop allowed industry representatives to comment on, and question, the views put forward by academics as they were applied to various industry sectors.

The forthright discussions at the workshop contributed to an improved understanding of the complexity of some of the issues at stake. The CATRN, which is largely funded by Agriculture and Agri-Food Canada, has conducted a significant volume of research in areas related to agri-food trade policy. Information on the CATRN, as well as copies of most of its research papers, can be found on the [CATRN website](#).

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16. OMAFRA Trade Policy Seminars Address Current Issues

Over the past few months the Policy and Farm Finance Division of the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has continued to sponsor seminars on current issues in agri-food trade policy. To address a number of very relevant issues in the area of "The WTO and Food Safety" a seminar was held on September 14. Speakers representing three agencies from the Canadian federal government, along with a spokesperson from the Grocery Manufacturers of America addressed this topic.

On October 13th, immediately following on the conclusion of the Cairns Group meeting in Banff (see earlier article in this edition of *Agri-Food Trade Update*) a seminar, focusing on the agricultural trade objectives of several Cairns Group countries, was held. This provided an opportunity for Ontario agri-food industry representatives to hear firsthand the views of Australia, New Zealand, South Africa and Canada, as presented by their respective officials.

Most of the presentations delivered at these two seminars are available on the *Policy Analysis* section of the [OMAFRA website](#).

The Policy and Farm Finance Division is anticipating sponsoring another trade policy seminar in March 2001. It will deal with new directions in U.S. agriculture and trade policy, and the progress being made in the agriculture negotiations in the WTO.

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17. Upcoming Events and Activities

November 14 – 17, 2000 WTO Committee on Agriculture meets in Geneva, the first two days for its regular meeting and the last two days in Special Session as part of the agriculture trade negotiations

November 15 – 17, 2000 FTAA Negotiating Group on Agriculture meets in Miami

December 11 – 15, 2000 First Meeting of the Intergovernmental Committee for the Cartagena Protocol, Montpellier, France

December 29, 2000 Deadline for CITT to make preliminary injury ruling in garlic investigation.

December 31, 2000 Implementation Agreement on WTO dairy case expires.

February 5, 2001 Deadline for CCRA to make final dumping and subsidy ruling in corn investigation.

March 2001 OMAFRA Seminar on U.S. Agriculture Policy and WTO Negotiations

April 20 – 22, 2001 Third Summit of the Americas, Quebec City

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